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1 THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

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3 STATE OF OKLAHOMA, ex rel W.A.  
DREW EDMONDSON, in his capacity  
4 as ATTORNEY GENERAL OF THE STATE  
OF OKLAHOMA, and OKLAHOMA SECRETARY  
5 OF THE ENVIRONMENT C. MILES TOLBERT,  
in his capacity as the TRUSTEE FOR  
6 NATURAL RESOURCES FOR THE STATE OF  
OKLAHOMA,

7

Plaintiffs,

8

vs No. 05-CV-0329 GKF-SAJ

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TYSON FOODS, INC., TYSON POULTRY, INC.,  
10 TYSON CHICKEN, INC., COBB-VANTRESS, INC.,  
AVIAGEN, INC., CAL-MAINE FOODS, INC.,  
11 CAL-MAINE FARMS, INC., CARGILL, INC.,  
CARGILL TURKEY PRODUCTION, LLC,  
12 GEORGE'S, INC., GEORGE'S FARMS, INC.,  
PETERSON FARMS, INC., SIMMONS FOODS, INC.,  
13 and WILLOW BROOK FOODS, INC.,

14 Defendants.

15 DEPOSITION OF ED ABERNATHY

16 Taken on Behalf of the Defendants

On March 26, 2009, beginning at 9:30 a.m.

17 In Poteau, Oklahoma

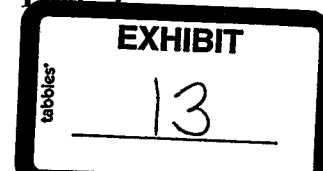
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APPEARANCES

19

Appearing on behalf of the PLAINTIFFS: ~~mathy~~, Ed 3/26/2009

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1 let you finish your answer before I ask the

2 question.

3 A I have -- I hope I haven't interrupted

4 you. I haven't intended to.

5 Q Well, we're getting close and it's hard

6 for her to keep up when we're talking over the top

7 of each other.

8 A Okay.

9 Q What kind of materials were provided by

10 NRCS?

11 A Well, they're Code 590.

12 Q Okay. What is the Code 590?

13 A It sets the parameters for using waste

14 management.

15 Q Okay. What kind of information is

16 contained in the Code 590?

17 A The amount of litter that can be applied

18 in and outside limited watersheds and the

19 restrictions on those applications.

20 Q Okay.

21 A Could I add one other thing?

22 Q Yes, sir.

23 A My education also included an intensive

24 course conducted by OSU and the extension with a

25 very difficult test. And after that I got my

00037

1 Q Okay. Is it your opinion that if someone  
2 followed the statements that you've included in the  
3 waste utilization section and the best management  
4 practice section of the plan that they would be  
5 complying with this prohibition of runoff or  
6 discharge from an application site?

7 MS. WEAVER: Object to the form.

8 A I can't be sure about that.

9 Q Why can't you be sure about that?

10 A Who verifies that he does all of this?

11 Q Well, who verifies that he does -- that  
12 the farmer follows the animal waste management plan?

13 A Well, I guess I'm not asking you this  
14 question, but my question is do they? So I can't  
15 say that...

16 Q Let me ask it this way. If -- let's  
17 assume we have a farmer, he has an animal waste  
18 management plan. If he follows everything that's in  
19 that animal waste management plan is he complying  
20 with this requirement?

21 MS. WEAVER: Object to the form.

22 A I would say this, it is not impossible to  
23 comply with the law.

24 Q What do you mean when you say it's not  
25 impossible to comply with the law?